

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 157 Homestead Assessments
SPONSOR(S): Littlefield
TIED BILLS: None **IDEN./SIM. BILLS:** SB 264

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Civil Justice Committee		Bond	Bond
2) Local Government Council			
3) Finance & Tax Committee			
4) Justice Council			
5) _____			

SUMMARY ANALYSIS

The 1992 Save Our Homes amendment to the Florida Constitution limits annual increases in the assessed value of homestead real property. It has the effect of providing substantial tax relief to Florida homeowners. The limit is not transferable to a new owner of the property because the constitutional provision requires reassessment of the property upon a change in ownership of the property.

This bill provides that the act of adding an additional co-owner is not a change in ownership requiring an increase in the assessed value of homestead real property. However, should any new co-owner apply for a homestead exemption on the property, the application will be considered a change in ownership requiring an increase in the assessed value of the real property.

The bill does not appear to have a fiscal impact on state government. This bill may have an unknown, but likely minimal, fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes -- This bill may assist individuals who, under current law, may accidentally stumble into increased property taxes bill because of a misunderstanding regarding estate planning.

B. EFFECT OF PROPOSED CHANGES:

Background

The local ad valorem tax is an annual tax levied by local governments based on the value of real and tangible personal property as of January 1 of each year. Florida's Constitution prohibits the state government from levying an ad valorem tax except on intangible personal property. The taxable value of real and tangible personal property is the fair market value of the property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes. Tax bills are mailed in November of each year based on the previous January 1st valuation and payment is due by the following March 31.¹ Local ad valorem tax revenues in Florida were approximately \$22.4 billion in 2004.²

Article VII, s. 6, Fla.Const., authorizes an exemption from ad valorem taxation for homestead property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner. The value of the homestead exemption is currently \$25,000 of the assessed value of the real estate.

In 1992, the electorate adopted an amendment to art. VII, s. 4, Fla.Const., known as the "Save Our Homes" amendment. The amendment limits increases in the ad valorem taxation on homestead real property by limiting increases in the assessed value of such property. The amendment levied a base year "just value" assessment for each homestead as of January 1, 1994, and restricts subsequent increases in assessments to the lower of either (a) three percent of the prior year's assessment, or (b) a percent change in the Consumer Price Index. Homestead real property purchased after 1994 has a base year "just value" set in the first year that the exemption is available, with the same limits on future increases in the assessed value. In 2004, the Save Our Homes amendment provided approximately \$4.5 billion in property tax relief to Florida homeowners.³

The limitation on future increases in the assessed value of homestead real property is only available to a current owner of the homestead real property. Article VII, s. 4(c)3., Fla.Const., provides:

After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the homestead shall be assessed as provided herein.

The statutory definition of a change of ownership is codified in s. 193.155, F.S., which provides:

(3) Except as provided in this subsection, property assessed under this section shall be assessed at just value as of January 1 of the year following a change of ownership. Thereafter, the annual changes in the assessed value of the property are subject to the limitations in subsections (1) and (2). For the purpose of this section, a change in ownership means any sale, foreclosure, or transfer of legal title or beneficial

¹ 2005 Florida Tax Handbook, p. 136, available from the House Finance & Tax Committee.

² 2005 Florida Tax Handbook, p. 135.

³ 2005 Florida Tax Handbook, p. 139.

title in equity to any person, except as provided in this subsection. There is no change of ownership if:

(a) Subsequent to the change or transfer, the same person is entitled to the homestead exemption as was previously entitled and:

1. The transfer of title is to correct an error; or
2. The transfer is between legal and equitable title;

(b) The transfer is between husband and wife, including a transfer to a surviving spouse or a transfer due to a dissolution of marriage;

(c) The transfer occurs by operation of law under s. 732.4015; or

(d) Upon the death of the owner, the transfer is between the owner and another who is a permanent resident and is legally or naturally dependent upon the owner.

It is not unusual for a homeowner to want to add an additional co-owner to their property. One common reason for this type of transaction is where an elderly person wants to add adult children as owners in an attempt to avoid probate. This type of transaction, however, is deemed a change in ownership that will result in an increase in the assessed value of the property (that is, a loss of the Save Our Homes benefit) in the year following the transaction.⁴

Effect of Bill

This bill amends s. 193.155, F.S., to provide that the act of adding an additional co-owner is not a change in ownership requiring an increase in the assessed value of homestead real property. However, should any new co-owner apply for a homestead exemption on the property, the application will be considered a change in ownership requiring an increase in the assessed value of the real property.

C. SECTION DIRECTORY:

Section 1 amends s. 193.155, F.S., to provide additional exceptions applicable to the Save Our Homes amendment.

Section 2 provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁴ See:

<http://pqasb.pqarchiver.com/sptimes/887477751.html?MAC=707a8e7ae0b21690200d46a180abdacb&did=887477751&FT=FT&FMTS=FT&date=Aug+25%2C+2005&author=HELEN+HUNTLEY&pub=St.+Petersburg+Times&printformat=&desc=Many+are+trying+to+save+that+tax+cap>

1. Revenues:
Minimal. See fiscal comments.

2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may keep an individual from accidentally causing an increased property tax assessment required under s. 193.155, F.S., which would cause increased property tax bills.

D. FISCAL COMMENTS:

This bill is expected to have a minimal negative fiscal impact on local government revenues. The usual reason for recording a deed that adds an owner is for estate planning purposes. However, such estate planning can be accomplished through other means. Individuals will generally refrain from conducting activities that have significant tax cost where there is an alternative without tax cost.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The Legislature may only grant property tax exemptions that are authorized in the constitution, and modifications to property tax exemptions must be consistent with the constitutional provision authorizing the exemption.⁵ This bill appears to be consistent with the constitutional provision that provides that the legislature is to define a change in ownership.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill refers to adding an additional person to the title. The phrase is not an accurate reflection of technical terminology used in real property transactions, and perhaps should be amended to be more accurate.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

n/a

⁵*Sebring Airport Authority v. McIntyre*, 783 So.2d 238, 247 (Fla. 2001).